

HOUSE BILL 1529  
By McMillan

AN ACT to amend Tennessee Code Annotated, Sections 9-8-307 and 9-8-402, relative to workers' compensation claims filed by Tennessee state employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-8-307(a)(1)(K)(i), is amended by deleting the first sentence thereof in its entirety and by substituting instead the following:

The commission's payment of these claims shall be in such amount and subject to such limitations as set forth in title 50, chapter 6, except the following code sections shall have no application to workers' compensation claims filed against the state: §§ 50-6-103, 50-6-104, 50-6-106(5), 50-6-117, 50-6-118, 50-6-128, 50-6-203(a)-(e) and (g)-(h), 50-6-205(b)(2), (b)(3), (c) and (d), 50-6-206(a)(1) and (c), 50-6-208, 50-6-211, 50-6-213, 50-6-222, 50-6-224(2), 50-6-225(a)-(d), (g) and (k), 50-6-227, 50-6-228, 50-6-229(b), 50-6-233, 50-6-236(a), (b), (e) and (h), 50-6-237(c), 50-6-238, 50-6-244, 50-6-306, 50-6-307, and title 50, chapter 6, part 4.

SECTION 2. Tennessee Code Annotated, Section 9-8-402(b), is amended by deleting the fourth sentence thereof in its entirety.

SECTION 3. Tennessee Code Annotated, Section 9-8-402(b), is further amended by adding the following immediately after the first sentence thereof:

Provided, however, that for workers' compensation purposes, the right to compensation and other benefits under the workers' compensation law shall be barred, unless the notice required by subsection (a) is filed with the division of claims administration within one (1) year after the accident resulting in injury.

SECTION 4. Tennessee Code Annotated, Section 9-8-402, is amended by adding the following new subsection at the end thereof:

(d)(1) Notwithstanding subsection (c) of this section or any other law to the contrary, if the division denies the compensability of a workers' compensation claim, the division shall so notify the claimant and inform the claimant of the reasons therefore and of the claimant's right to request a benefit review conference pursuant to § 50-6-239 within ninety (90) days from the date of the denial notice. If the division fails to honor or deny the compensability of a workers' compensation claim within the ninety-day settlement period, the division shall submit the dispute to the benefit review conference process as provided in § 50-6-239.

(2) Where the division of claims administration has paid workers' compensation benefits, either voluntarily or as a result of an order to do so, within one (1) year following the accident resulting in injury, the claimant must file a request for a benefits review conference pursuant to § 50-6-239 within no later than one (1) year from the latter of the date of the last authorized treatment or the time the division ceased to make payments of compensation to or on behalf of the claimant in order for the claimant to recover any unpaid or further workers' compensation benefits. For purposes of this section, the issuing date of the last voluntary payment of compensation, not the date of its receipt, shall constitute the time the division ceased making payments and the division shall provide such date on request.

(3) The right to compensation for an occupational disease or a claim for death benefits as a result of an occupational disease must be initiated within the time periods set forth in this section; provided, however, that the applicable time limitation period or periods shall commence as of the date of the beginning of the incapacity for work resulting from an occupational disease or upon the date death results from the

occupational disease; provided, however, that if upon the date of the death of the employee the employee's claim has become barred, the claim of the employee's dependent or dependents shall likewise be barred.

(4) In conducting any benefit review conference pursuant to this subsection, the conference shall be held in the county where the employee lives, unless otherwise agreed to between the parties. A workers' compensation specialist, as defined in § 50-6-102, shall have the authority to continue or reschedule a benefit review conference.

(5) In the event an agreement cannot be reached at the benefit review conference as to all issues related to the claim, the claimant shall have ninety (90) days, after the date a written agreement or a written report regarding the benefit review conference is filed with the commissioner of labor and workforce development as provided in § 50-6-240, to file a claim with the claims commission. A claim for workers' compensation benefits must be instituted in the claims commission within said ninety (90) days.

(6) No claim for workers' compensation shall be filed with the claims commission, as provided in § 9-8-307, until the benefit review conference process as provided in § 50-6-239 has been exhausted. Notwithstanding the provisions of this subsection, if a compromise and settlement of a claim for workers' compensation has been mutually agreed to, the parties shall not be required to exhaust the benefit review conference process before filing a claim and submitting the compromise and settlement to the claims commission pursuant to § 9-8-307(a)(1)(K)(iii). If the settlement is not approved, the parties shall then exhaust the benefit review conference process.

(7) In case of physical or mental incapacity, other than minority, of the injured person or such injured person's dependents to perform or cause to be performed any action required within the time specified in this section then the period of limitation in such case shall be extended for one (1) year from the date when such incapacity ceases.

SECTION 5. Section 1 of this act shall take effect upon becoming a law, the public welfare requiring it. The remaining provisions of this act shall take effect January 1, 2005, the public welfare requiring it and shall apply to accidents or injuries occurring on or after January 1, 2005.